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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
Service and Regulatory Announcements No. 182

AGRICULTURAL MARKETING ACT
OF 1946, AS AMENDED
and the "Part 68"
Regulations thereunder (as amended)



UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

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AGRICULTURAL MARKETING ACT OF 1946

As Amended

(60 Stat. 1087) ; as amended Oct. 28, 1949 by section 1106(a) (63 Stat. 972) ; as amended Aug. 30, 1954 by section one (7) (68 Stat. 966) ; and as amended Aug. 7, 1955 by section one (69 Stat. 553)

AN ACT

To provide for further research into basic laws and principles relating to agriculture and to improve and facilitate the marketing and distribution of agricultural products.

TITLE II

This title may be cited as the "Agricultural Marketing Act of 1946".

SEC. 202. The Congress hereby declares that a sound, efficient, and privately operated system for distributing and marketing agricultural products is essential to a prosperous agriculture and is indispensable to the maintenance of full employment and to the welfare, prosperity, and health of the Nation. It is further declared to be the policy of Congress to promote through research, study, experimentation, and through cooperation among Federal and State agencies, farm organizations, and private industry a scientific approach to the problems of marketing, transportation, and distribution of agricultural products similar to the scientific methods which have been utilized so successfully during the past eighty-four years in connection with the production of agricultural products so that such products capable of being produced in abundance may be marketed in an orderly manner and efficiently distributed. In order to attain these objectives, it is the intent of Congress to provide for (1) continuous research to improve the marketing, handling, storage, processing, transportation, and distribution of agricultural products; (2) cooperation among Federal and State agencies, producers, industry organizations, and others in the development and effectuation of research and marketing programs to improve the distribution processes; (3) an integrated administration of all laws enacted by Congress to aid the distribution of agricultural products through research, market aids and services, and regulatory activities, to the end that marketing methods and facilities may be improved, that distribution costs may be reduced and the price spread between the producer and consumer may be narrowed, that dietary and nutritional standards may be improved, that new and wider

(7 U.S.C.
1621)

markets for American agricultural products may be developed, both in the United States and in other countries, with a view to making it possible for the full production of American farms to be disposed of usefully, economically, profitably, and in an orderly manner. In effectuating the purposes of this title, maximum use shall be made of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State extension services. To the maximum extent practicable marketing research work done hereunder in cooperation with the States shall be done in cooperation with the State agricultural experiment stations; marketing educational and demonstrational work done hereunder in cooperation with the States shall be done in cooperation with the State agricultural extension service; market information, inspection, regulatory work and other marketing service done hereunder in cooperation with the State agencies shall be done in cooperation with the State departments of agriculture, and State bureaus and departments of markets.

(7 U.S.C.
1622)

SEC. 203. The Secretary of Agriculture is directed and authorized:

(a) To conduct, assist, and foster research, investigation, and experimentation to determine the best methods of processing, preparation for market, packaging, handling, transporting, storing, distributing, and marketing agricultural products: *Provided*, That the results of such research shall be made available to the public for the purpose of expanding the use of American agricultural products in such manner as the Secretary of Agriculture may determine.

(b) To determine costs of marketing agricultural products in their various forms and through the various channels and to foster and assist in the development and establishment of more efficient marketing methods (including analyses of methods and proposed methods), practices, and facilities, for the purpose of bringing about more efficient and orderly marketing, and reducing the price spread between the producer and the consumer.

(c) To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.

(d) To conduct, assist, foster, and direct studies and informational programs designed to eliminate artificial barriers to the free movement of agricultural products.

(e) To foster and assist in the development of new or expanded markets (domestic and foreign) and new and expanded uses and in the moving of larger quantities of agricultural products through the private marketing system to consumers in the United States and abroad.

(f) To conduct and cooperate in consumer education for the more effective utilization and greater consumption of agricultural products: *Provided*, That no money appropriated under the authority of this Act shall be used to pay for newspaper or periodical advertising space or radio time in carrying out the purposes of this section and section 203(e).

(g) To collect and disseminate marketing information, including adequate outlook information on a market-area basis, for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income, and bringing about a balance between production and utilization of agricultural products.

(h) To inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary of Agriculture may prescribe, including assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered, to the end that agricultural products may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product which they desire, except that no person shall be required to use the service authorized by this subsection. Any official certificate issued under the authority of this subsection shall be received by all officers and all courts of the United States as *prima facie* evidence of the truth of the statements therein contained. Whoever knowingly shall falsely make, issue, alter, forge, or counterfeit any official certificate, memorandum, mark, or other identification, or device for making such mark or identification, with respect to inspection, class, grade, quality, size, quantity, or condition, issued or authorized under this section or knowingly cause or procure, or aid, assist in, or be a party to, such false making, issuing, altering, forging, or counterfeiting, or whoever

knowingly shall possess, without promptly notifying the Secretary of Agriculture or his representative, utter, publish, or use as true, or cause to be uttered, published, or used as true, any such falsely made, altered, forged, or counterfeited official certificate, memorandum, mark, identification, or device, or whoever knowingly represents that an agricultural product has been officially inspected or graded (by an authorized inspector or grader) under the authority of this section when such commodity has in fact not been so graded or inspected shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(i) To determine the needs and develop or assist in the development of plans for efficient facilities and methods of operating such facilities for the proper assembly, processing, transportation, storage, distribution, and handling of agricultural products.

(j) To assist in improving transportation services and facilities and in obtaining equitable and reasonable transportation rates and services and adequate transportation facilities for agricultural products and farm supplies by making complaint or petition to the Interstate Commerce Commission, the Maritime Commission, the Civil Aeronautics Board, or other Federal or State transportation regulatory body with respect to rates, charges, tariffs, practices, and services, or by working directly with individual carriers or groups of carriers.

(k) To collect, tabulate, and disseminate statistics on marketing agricultural products, including, but not restricted to statistics on market supplies, storage stocks, quantity, quality, and condition of such products in various positions in the marketing channel, utilization of such products, and shipments and unloads thereof.

(l) To develop and promulgate, for the use at the request of any Federal agency or State, procurement standards and specifications for agricultural products, and submit such standards and specifications to such agency or State for use or adoption for procurement purposes.

(m) To conduct, assist, encourage, and promote research, investigation, and experimentation to determine the most efficient and practical means, methods, and processes for the handling, storing, preserving, protecting, processing, and distributing of agricultural commodities to the end that such commodities may be marketed in an orderly manner and to the best interest of the producers thereof.

(n) To conduct such other research and services and to perform such other activities as will facilitate the marketing, distribution, processing, and utilization of agricultural products through commercial channels.

SEC. 204. (a) In order to conduct research and service work in connection with the preparation for market, processing, packaging, handling, storing, transporting, distributing, and marketing of agricultural products as authorized by this title, there is hereby authorized to be appropriated the following sums:

(7 U.S.C.
1623)

(1) \$2,500,000 for the fiscal year ending June 30, 1947, and each subsequent fiscal year.

(2) An additional \$2,500,000 for the fiscal year ending June 30, 1948, and each subsequent fiscal year.

(3) An additional \$5,000,000 for the fiscal year ending June 30, 1949, and each subsequent fiscal year.

(4) An additional \$5,000,000 for the fiscal year ending June 30, 1950, and each subsequent fiscal year.

(5) An additional \$5,000,000 for the fiscal year ending June 30, 1951, and each subsequent fiscal year.

(6) In addition to the foregoing, such additional funds beginning with the fiscal year ending June 30, 1952, and thereafter, as the Congress may deem necessary.

Such sums appropriated in pursuance of this title shall be in addition to, and not in substitution for, sums appropriated or otherwise made available to the Department of Agriculture.

(b) The Secretary of Agriculture is authorized to make available from such funds such sums as he may deem appropriate for allotment to State departments of agriculture, State bureaus and departments of markets, State agricultural experiment stations, and other appropriate State agencies for cooperative projects in marketing service and in marketing research to effectuate the purposes of title II of this Act: *Provided*, That no such allotment and no payment under any such allotment shall be made for any fiscal year to any State agency in

excess of the amount which such State agency makes available out of its own funds for such research. The funds which State agencies are required to make available in order to qualify for such an allotment shall be in addition to any funds now available to such agencies for marketing services and for marketing research. The allotments authorized under this section shall be made to the agency or agencies best equipped and qualified to conduct the specific project to be undertaken. Such allotments shall be covered by cooperative agreements between the Secretary of Agriculture and the cooperating agency and shall include appropriate provisions for preventing duplication or overlapping of work within the State or States cooperating. Should duplication or overlapping occur subsequent to approval of a cooperative project or allotment of funds, the Secretary of Agriculture is authorized and directed to withhold unexpended balances on such projects notwithstanding the prior approval thereof.

(7 U.S.C.
1624)

SEC. 205. (a) In carrying out the provisions of title II of this Act, the Secretary of Agriculture may cooperate with other branches of the Government, State agencies, private research organizations, purchasing and consuming organizations, boards of trade, chambers of commerce, other associations of business or trade organizations, transportation and storage agencies and organizations, or other persons or corporations engaged in the production, transportation, storing, processing, marketing, and distribution of agricultural products whether operating in one or more jurisdictions. The Secretary of Agriculture shall have authority to enter into contracts and agreements under the terms of regulations promulgated by him with States and agencies of States, private firms, institutions, and individuals for the purpose of conducting research and service work, making and compiling reports and surveys, and carrying out other functions relating thereto when in his judgment the services or functions to be performed will be carried out more effectively, more rapidly, or at less cost than if performed by the Department of Agriculture. Contracts hereunder may be made for work to be performed within a period not more than four years from the date of any such contract, and advance, progress, or other payments may be made. The provisions of section 3648 (31 U.S.C., sec. 529) and section 3709 (41 U.S.C., sec. 5) of the Revised Statutes shall not be applicable to contracts or agreements made under the authority of this section. Any unexpended balances of appropriations obligated by contracts as authorized by this section may, notwithstanding the provisions of section 5 of the Act of June 20, 1874, as amended (31 U.S.C., sec. 713), remain upon the books of the Treasury for not more than five fiscal years before being carried to the surplus fund and covered into the Treasury. Any contract made pursuant to this section shall contain requirements making the result of such research and investigations available to the public by such means as the Secretary of Agriculture shall determine.

(b) The Secretary of Agriculture shall promulgate such orders, rules, and regulations as he deems necessary to carry out the provisions of this title.

(7 U.S.C.
1625)

SEC. 206. In order to facilitate administration and to increase the effectiveness of the marketing research, service, and regulatory work of the Department of Agriculture to the fullest extent practicable, the Secretary of Agriculture is authorized, notwithstanding any other provisions of law, to transfer, group, coordinate, and consolidate the functions, powers, duties, and authorities of each and every agency, division, bureau, service, section, or other administrative unit in the Department of Agriculture primarily concerned with research, service, or regulatory activities in connection with the marketing, transportation, storage, processing, distribution of, or service or regulatory activities in connection with, the utilization of, agricultural products, into a single administrative agency. In making such changes as may be necessary to carry out effectively the purposes of this title, the records, property, personnel, and funds of such agencies, divisions, bureaus, services, sections, or other administrative units in the Department of Agriculture affected thereby are authorized to be transferred to and used by such administrative agency to which the transfer may be made, but such unexpended balances of appropriations so transferred shall be used only for the purposes for which such appropriations were made.

(7 U.S.C.
1626)

SEC. 207. When used in this title, the term "agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof.

SEC. 298. The Secretary of Agriculture shall have the power to appoint, remove, and fix, in accordance with existing law, the compensation of such officers and employees, and to make such expenditures as he deems necessary including expenditures for rent outside the District of Columbia, travel, supplies, books, equipment, and such other expenditures as may be necessary to the administration of this title: *Provided*, That the Secretary of Agriculture may appoint and fix the compensation of any technically qualified person, firm, or organization by contract or otherwise on a temporary basis and for a term not to exceed six months in any fiscal year to perform research, inspection, classification, technical, or other special services, without regard to the civil-service laws, as approved August 14, 1946, and amended August 30, 1954, by Public Law 706, 23d Congress, and August 9, 1955, by Public Law 272, 84th Congress. (7 U.S.C. 1627)

REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE AGRICULTURAL MARKETING ACT OF 1946, AS AMENDED

(Title 7, Chapter I, Subchapter C, Part 68, of the Code of Federal Regulations)

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AUTHORITY: §§ 68 1 to 68.54 issued under 60 Stat. 1087, 7 U.S.C. 1621 et seq.; 62 Stat. 507, 7 U.S.C. Sup. 414.

DEFINITIONS

68.1 Meaning of words.—Words used in the regulations in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

68.2 Terms defined.—For the purpose of the regulations in this part, unless the context otherwise requires, the following terms shall be construed, respectively, as follows:

(a) *Acts.*—The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), and the following provisions of the Department of Agriculture Appropriation

Act, 1949 (62 Stat. 507, 7 U.S.C. Supp. 414), or similar provisions of any future act of Congress conferring like authority: "For the investigation and certification, in one or more jurisdictions, to shippers and other interested parties of the class, quality, and condition of any agricultural commodity or food product, whether raw, dried, canned, or otherwise processed, and any product containing an agricultural commodity or derivative thereof when offered for interstate shipment or when received at such important central markets as the Secretary may from time to time designate, or at points which may be conveniently reached therefrom under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered."

(b) *Regulations*.—The regulations in this part.

(c) *Department*.—The United States Department of Agriculture.

(d) *Secretary*.—The Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(e) *Administrative*.—The Administrator of the Agricultural Marketing Service of the Department, or any other officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(f) *Division*.—The Grain Division of the Agricultural Marketing Service of the Department.

(g) *Director*.—The Director of the Division or any other officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(h) *Person*.—Any individual, partnership, association, business trust, corporation, or any other organized group of persons, whether incorporated or not.

(i) *Interested party*.—Any person financially interested in a transaction involving a commodity.

(j) *Applicant*.—An interested party who requests any inspection service with respect to a commodity.

(k) *Inspector*.—Any employee of the Department authorized by the Secretary, or any other person licensed by the Secretary, to inspect and certify the class, quality, quantity, or condition of specified commodities.

(l) *Supervising inspector*.—Any employee of the Department authorized by the Secretary to inspect and certify the class, quality, quantity, or condition of specified commodities and designated by the Director to supervise the work of inspectors and official samplers.

(m) *Official sampler*.—Any person licensed by the Secretary to draw samples of commodities for inspection or any employee of the Department authorized by the Director or by a supervising inspector to draw samples of commodities for inspection.

(n) *Commodity*.—Any one of the following agricultural commodities and products: dry beans, grain, hay, hops, lentils, oilseeds, dry peas, split peas, rice, agricultural and vegetable seeds, straw, and other agricultural commodities, and products of any of such commodities, assigned by the Administrator to the Division for inspection.

(o) *Office of inspection*.—The office of an inspector.

(p) *Inspection certificate*.—A written or printed statement issued by an inspector pursuant to the acts and the regulations relative to the class, quality, quantity, or condition of commodities at the time and place stated therein.

(q) *Inspection*.—(1) applying such tests and making such examinations of a commodity and records, according to the regulations, as may be necessary to determine the class, grade, other quality designation, quantity, or condition of such commodity, and (2) issuing an inspection certificate.

(r) *Grade*.—A grade as defined in official standards for a commodity promulgated by the Secretary.

(s) *Origin*.—The place or geographical area where the commodity is grown which is a factor of quality.

(t) *Cooperative agreement*.—A memorandum of agreement between the Department and other branches of the Federal Government, State agencies, and other agencies or persons, to conduct, cooperatively, commodity inspection services as authorized in the acts.

ADMINISTRATION

68.3 Authority.—The Director is charged with the administration of the provisions of the regulations and of the acts insofar as they relate to the subject matter of the regulations, under the supervision of the Secretary and the Administrator.

INSPECTION

68.4 Kind and availability of service.—(a) The inspection of commodities shall be (1) according to (i) standards of class, grade, other quality designation, quantity, or condition for such commodities promulgated by the Secretary; or (ii) specifications prescribed by Federal agencies; or (iii) specifications of trade associations or organizations approved by the Director; or (iv) instructions and procedures adopted or prescribed by the Director; or (2) for one or more factors of class, grade, other quality designation, quantity, or condition, as defined in such standards, specifications, or instructions and procedures, or otherwise as approved by the Director.

(b) Inspection under the regulations may be provided for commodities shipped or received in interstate commerce, and may also be provided for commodities at important central markets and other places designated by the Director when he determines that such inspection will facilitate the marketing, distribution, processing, and utilization of agricultural products through commercial channels. This may include the inspection under the official grain standards of the United States (Part 26, Subpart B, of this chapter) at designated places in Canada of grain produced in the United States which is moving through Canada in the course of exportation from the United States to countries other than Canada, and for which such standards have been fixed and established under the United States Grain Standards Act (7 U.S.C. 71 et seq.). Specific information as to the places where inspection is available may be obtained from the Director.

68.4a Instructions and procedures; inspection of cargo wheat for protein content.—(a) Inspection and certification of cargo wheat for protein content may be performed in accordance with subparagraph (1) or (2) of this paragraph.

(1) *Sample inspection and certification.* Inspection and certification of the protein content of a sample of cargo wheat which has been inspected under the United States Grain Standards Act will be performed as follows:

(i) The Supervising Inspector will obtain from the inspector licensed under the United States Grain Standards Act who inspected the wheat a portion of the composite sample used by the inspector in inspection and grading of the wheat under said act.

(ii) The Supervising Inspector will, as instructed by the Director, submit the sample of wheat to a Federal, State, or commercial laboratory approved by the Director, for analysis to determine the protein content of the wheat. In submitting the sample, the Supervising Inspector will request the laboratory to determine the protein content on the "as is" moisture basis or on a "14.0 percent" moisture basis, as requested by the applicant. If the protein content is to be determined on the "as is" moisture basis, the Supervising Inspector will show no percentage of moisture. If the protein content is to be determined on a "14.0 percent" moisture basis, the Supervising Inspector will show the percentage of moisture in the wheat as stated on the last outstanding certificate of grade or, if there is no certificate of grade, as determined by the Supervising Inspector.

(iii) The laboratory will, as requested by the Supervising Inspector, determine the protein content of the wheat on the "as is" moisture basis or on a "14.0 percent" moisture basis; and will report the results of the determination, in terms of whole percent and tenths of a percent, to the Supervising Inspector. In determining the protein content on a "14.0 percent" moisture basis, the laboratory will use, for the purpose of calculation, the percentage of moisture in the wheat as shown by the Supervising Inspector.

(iv) A Federal inspection certificate will be issued by the Supervising Inspector showing the identity of the sample, the quantity of wheat in the sample, and the protein content of the wheat. The protein content will be stated in terms of whole percent and tenths of a percent and will be shown on the "as is" moisture basis unless the applicant specifically requests that the protein content be shown on a "14.0 percent" moisture basis. If the protein content is shown on a "14.0 percent" moisture basis, that fact will be stated on the certificate. The percentage of moisture in the wheat, as shown on the last outstanding certificate of

grade or, if there is no certificate of grade, as determined by the Supervising Inspector, will also be shown on the certificate. The following statement will be shown on the certificate in the space provided for remarks:

Sample identified by licensed inspector----- as a
 (Name of Inspector)
 portion of the sample used in the inspection and grading of the wheat as loaded aboard
 the-----
 (Name of vessel)

(v) The inspection and certification under this paragraph will apply only to the sample described.

(2) *Lot inspection and certification.* Inspection and certification of the protein content of a cargo, or an identified part of a cargo of wheat, will be performed as follows:

(i) An official sample will be drawn from the cargo of wheat, or identified portion thereof, by or under the supervision of the Supervising Inspector. If the wheat is wheat on which an appeal was taken under the United States Grain Standards Act, a portion of the appeal sample will be used as the sample for purposes of inspection and certification under this paragraph.

(ii) The Supervising Inspector will, as instructed by the Director, submit the sample of wheat to a Federal, State, or commercial laboratory approved by the Director, for analysis to determine the protein content of the wheat. In submitting the sample, the Supervising Inspector will request the laboratory to determine the protein content on the "as is" moisture basis or on a "14.0-percent" moisture basis as requested by the applicant. If the protein content is to be determined on the "as is" moisture basis, the Supervising Inspector will show no percentage of moisture. If the protein content is to be determined on a "14.0-percent" moisture basis, the Supervising Inspector will show the percentage of moisture in the wheat as stated on the last outstanding certificate of grade or, if there is no certificate of grade, as determined by the Supervising Inspector.

(iii) The laboratory will, as requested by the Supervising Inspector, determine the protein content of the wheat on the "as is" moisture basis or on a "14.0-percent" moisture basis; and will report the results of the determination, in terms of whole percent and tenths of a percent, to the Supervising Inspector. In determining the protein content on a "14.0-percent" moisture basis, the laboratory will use, for the purpose of calculation, the percentage of moisture in the wheat as shown by the Supervising Inspector.

(iv) A Federal inspection certificate will be issued by the Supervising Inspector showing the quantity of wheat in the cargo, the identity of the wheat by name of vessel and place of stowage in the vessel, and the protein content of the wheat. The protein content will be stated in terms of whole percent and tenths of a percent and will be shown on the "as is" moisture basis unless the applicant specifically requests that the protein content be shown on a "14.0-percent" moisture basis. If the protein content is shown on a "14.0-percent" moisture basis, that fact will be stated on the certificate. The percentage of moisture, as shown on the last outstanding certificate of grade or, if there is no certificate of grade, as determined by the Supervising Inspector, will also be shown on the certificate.

(v) Two or more samples may be drawn from definite identified parts of a cargo and separately analyzed and the results shown on one certificate, upon request of the applicant.

(3) *Reinspection and certification.*—Reinspection and certification of the protein content of a sample of cargo wheat, or the protein content of a cargo, or an identified part of a cargo of wheat, will be performed in accordance with the provisions of §§ 68.17 to 68.20 and other applicable provisions in this part: *Provided*, That the application for the reinspection, and the reinspection, may be made after the commodity has left the place where the original inspection was made.

(4) *Appeal inspection and certification.*—Appeal inspection and certification of the protein content of a sample of cargo wheat, or the protein content of a cargo, or an identified part of a cargo of wheat, will be performed in accordance with the provisions of §§ 68.21 to 68.28 and other applicable provisions in this part: *Provided*, That the application for the appeal inspection, and the appeal inspection, may be made after the commodity has left the place where the inspection appealed from was made, and/or after the entire lot of the commodity is no longer available and accessible for sampling and examination.

(b) Fees will be charged to cover the cost of the inspection and certification service under this section in accordance with the provisions of § 68.42a.

(c) Inspection and certification of cargo wheat for protein content is not required by, and does not meet the requirements of, the United States Grain Standards Act. Inspection and certification service for protein content will be performed only upon request. Application for such service should be filed with the office of the Grain Division at or nearest the place where the service is desired. Application should be made, if possible, at least 48 hours before the loading of the wheat into the vessel is expected to begin.

(d) The definitions in § 68.2 shall apply to the provisions in this section.

68.4b Inspection of wheat for sedimentation value.—Inspection and certification of wheat for the sedimentation value shall be performed in accordance with these regulations and in accordance with instructions and procedures prescribed by the Director. Copies of the instructions and procedures prescribed by the Director may be obtained by writing to the Director.

68.5 Regulations not applicable for certain purposes.—The regulations do not apply to the inspection of grain in the United States under the United States Grain Standards Act (7 U.S.C. 71 et seq.) or to the testing and inspection of seed under the Federal Seed Act (7 U.S.C. 1551 et seq.).

68.6 Who may inspect commodities.—The inspection of commodities shall be made only by a person who has been authorized or licensed by the Secretary to perform such functions.

68.7 Who may obtain service.—An application for inspection may be made by any interested party or his authorized agent.

68.8 How to make application.—An application for inspection may be made to any office of inspection. Such application may be made orally, in writing, or by telegraph. If made orally, the office of inspection may require that such application be confirmed in writing.

68.9 Form of application.—An application for inspection shall include the following information: (a) The date of the application; (b) the identification, quantity, and location of the commodity; (c) the name and post office address of the applicant and, if made by an authorized agent, the name and post office address of such agent; and (d) such other information relating to the inspection as may be required by the official with whom the application is filed.

68.10 When application may be withdrawn.—Upon payment by an applicant of the charges required by § 68.45, an application for inspection may be withdrawn at any time before the certificate has been issued or the results of the inspection have been furnished through other means.

68.11 Accessibility of Commodities.—Each lot of a commodity for which inspection is requested shall be so placed as to permit the entire lot to be examined or a representative sample thereof to be obtained as required by the kind of inspection to be performed: *Provided*, That if the entire lot is not accessible for examination or a representative sample cannot be obtained, the accessible portion of the lot may be examined or sampled and the inspection restricted to such portion, and the results certified as outlined in § 68.14.

68.12 Lot inspection.—A lot inspection shall be made by examining an identified lot of a commodity, by analyzing or testing a representative sample or samples of such commodity or by examining relevant records concerning a commodity, whichever may be required for the kind of service requested.

68.13 Sample inspection.—A sample inspection shall be made by examining, analyzing, or testing a sample of a commodity submitted by an applicant for inspection.

68.14 Inspection certificate, issuance.—Immediately after an inspection has been completed the inspector shall sign and issue an inspection certificate showing the results of the inspection, in accordance with paragraph (a) or (b) of this section.

(a) **Lot inspection certificate.**—A lot inspection certificate shall be issued to show the results of the inspection of an identified lot of a commodity: *Provided*, That, when the entire lot is not accessible for examination or a representative sample thereof cannot be obtained, the certificate shall state the estimated quantity of the commodity in the accessible portion or in the portion for which a representative sample has been obtained, and that the inspection is restricted to such portion, and such certificate may have printed or stamped thereon the words "Partial inspection" or "Partial inspection certificate."

(b) *Sample inspection certificate.*—A sample inspection certificate shall be issued to show the results of the inspection of a sample of a commodity submitted by an interested party. Each sample inspection certificate shall state that the results of the inspection set out therein apply only to the sample described in the certificate.

68.15 Inspection certificate, form.—Each inspection certificate shall be approved by the Director as to form, shall state the results of the inspection, and shall embody within its written or printed terms only such statements of fact as may be required or authorized by the Director.

68.16 Inspection certificate, disposition of.—Immediately upon issuance the original and one copy of each inspection certificate shall be delivered or mailed to the applicant or otherwise delivered or mailed in accordance with his instructions. One copy of each inspection certificate shall be filed in the office of inspection, and two copies shall be forwarded to the supervising inspector. Not to exceed three additional copies may be furnished, without extra charge, to the applicant if a request therefor is made prior to the issuance of such inspection certificate.

REINSPECTION

68.17 How to obtain a reinspection; withdrawal of application therefor.—(a) Any interested party who is dissatisfied with the results of an original inspection as stated in the inspection certificate issued as required by §§ 68.4a or 68.14 may make application for a reinspection of the commodity to the office of inspection where the original inspection was made: *Provided, That*, (a) the commodity has not left the place where the original inspection was made; (b) the identity of the commodity has not been lost; (c) an application for an appeal inspection has not been filed as provided in § 68.21; (d) the certificate issued as the result of the original inspection of the commodity is surrendered to the office of inspection; and (e) the application for reinspection is filed not later than the close of business on the second business day after the date of the original inspection.

(b) Upon payment by an applicant of the charges required by § 68.45, an application for reinspection may be withdrawn at any time before the certificate has been issued or the results of the reinspection furnished through other means.

68.18 Manner of reinspection.—A reinspection shall be made by an inspector of the office of inspection where the original inspection was made, shall be based upon an analysis or test of a representative sample or a reexamination of the commodity involved or the records thereof, and shall be for the determination of the same factors of class, grade, other quality designation, quantity, or condition as requested in connection with the original inspection.

68.19 Reinspection certificates.—After a reinspection has been completed, the inspector shall sign and issue a certificate showing the results of the reinspection, and such certificate shall supersede the original inspection certificate issued for the commodity involved. Each reinspection certificate shall bear conspicuously on its face the notation "Reinspection" and shall clearly identify by number and date, the inspection certificate which it supersedes. Such supersedeure shall be effective as of the date of issuance of the reinspection certificate.

68.20 Disposition of reinspection certificate.—The original and one copy of each reinspection certificate shall be delivered or mailed to the applicant, and a copy shall be delivered or mailed to each known person who received a copy of the superseded certificate.

APPEAL INSPECTION

68.21 How to obtain an appeal inspection.—Any interested party who is dissatisfied with the results stated in an unsuperseded inspection certificate may make application for an appeal inspection: *Provided, That* (a) the commodity has not left the place where the inspection appealed from was made; (b) the identity of the commodity has not been lost; (c) the entire lot of the commodity is available and accessible for sampling and examination; and (d) the application is filed not later than the close of business on the second business day following the date of the inspection appealed from, which time of filing may be extended by the supervising inspector for good cause shown. The application for appeal inspection shall be made in writing or by telegraph, and shall be filed in the Office of a Supervising Inspector. The inspection certificate with respect

to which the application for appeal inspection is made shall be submitted with the application or as soon thereafter as possible.

68.22 Appeal application, form.—An application for an appeal inspection shall be signed by the applicant or his duly authorized agent and shall state: (a) The identification, quantity, and location of the commodity at the time of making the appeal; (b) the names and post office addresses of all interested parties; and (c) such other information relevant thereto as may be required by the supervising inspector.

68.23 Record of filing appeal application.—A record showing the date and place of filing an application for appeal inspection and including any other available documents pertaining to such appeal inspection shall be made immediately upon receipt thereof at the office of the supervising inspector.

68.24 When appeal application may be withdrawn.—Upon payment by an appellant of the fees and charges required by § 68.45, an application of an appeal inspection may be withdrawn at any time before the Federal appeal certificate has been issued or the results of the inspection have been furnished through other means.

68.25 Who shall make appeal inspections.—An appeal inspection shall be made only by a supervising inspector authorized by the Director to make appeal inspections of the commodity involved.

68.26 Appeal inspection certificate, issuance.—Immediately after an appeal inspection has been completed, an inspection certificate designated as "Federal Appeal Inspection Certificate" shall be issued by the supervising inspector, showing the results of such appeal inspection, and such certificate shall identify by number and date, the certificate which it supersedes.

68.27 Appeal inspection certificate, disposition.—The original and one copy of each appeal inspection certificate shall be delivered or mailed to the appellant or person designated by such appellant. A copy shall also be furnished to each interested party of record, including the inspector who made the inspection appealed from, and a copy shall be filed in the office of the supervising inspector. Not to exceed three additional copies may be furnished, without extra charge, to the appellant if a request therefor is made prior to the issuance of the appeal inspection certificate.

68.28 Appeal inspection certificate supersedes inspection certificate.—An appeal inspection certificate shall supersede the inspection certificate with respect to which the appeal inspection is made; and such supersedure shall be effective as of the date of issuance of such appeal inspection certificate.

68.29 New inspection.—The provisions of § 68.4 to § 68.28, with respect to inspections, reinspections, and appeal inspections shall not be construed to prevent any interested party from obtaining a new inspection on any commodity when the circumstances are such as to preclude a reinspection or an appeal inspection under the regulations. A certificate issued as a result of such new inspection shall not supersede any inspection certificate previously issued. An application for a new inspection shall not be restricted to the scope of any previous inspection and the applicant may request any or all of the inspection services provided for by the regulations, in this part with the privilege of reinspection and appeal inspection.

GENERAL PROVISIONS FOR INSPECTION, REINSPECTION, AND APPEAL INSPECTION

68.30 Authority of applicant.—Proof of the authority of the person applying for any inspection service may be required in the discretion of the official to whom application for inspection is made.

68.31 Advance information.—Upon the request of an applicant for inspection, all or any part of the contents of an inspection certificate issued to such applicant may be telegraphed or telephoned to him at his expense.

68.32 Accessibility of records.—In the case of inspection for origin, the records indicating the origin of the commodity to be inspected shall be made accessible for examination and verification by an inspector.

68.33 Manner of sampling, examinations, analyses, etc.—All samplings, examinations, analyses, and tests shall be made in accordance with instructions and procedures prescribed or approved by the Director.

68.34 Conditions upon which inspection service furnished.—Service under the regulations in this part will be furnished only if the applicant therefor has complied with all relevant provisions of the acts and the regulations in this part pre-

scribing the conditions upon which such service is made available, and until the applicant does so comply such service will be refused by the official to whom, or the official in charge of the office at which, application for service is made.

68.35 Denial of inspection service.—(a) Any willful misrepresentation or deceptive or fraudulent practice made or committed by any person in connection with the making or filing of an application for inspection service; (b) any fraudulent or unauthorized use, alteration, or imitation of any certificate issued pursuant to the regulations; (c) any interference with or obstruction of any inspector or official sampler in the performance of his duties, by intimidation, threat, assault or any other improper means; or (d) any willful violation of the regulations may be deemed sufficient cause for debarring the person found guilty thereof from any or all benefits of the acts, after opportunity for hearing before a proper official in the Department has been accorded him: *Provided*, That pending investigation and hearing the Director may, without hearing, direct that such person shall be denied the benefits of the acts.

AUTHORIZED INSPECTORS

68.36 Who may be authorized.—Any employee of the Department who has demonstrated that he possesses a thorough knowledge of a commodity and the standards, and instructions and procedures under which it is inspected may be authorized by the Secretary to inspect such commodity. Each authorization which is issued by the Secretary shall be countersigned by the Director.

LICENSED INSPECTORS AND SAMPLERS

68.37 Who may be licensed as inspectors.—Any person who is employed under the terms of a cooperative agreement, who possesses proper qualifications, as determined by the Director, and who has no interest, financial or otherwise, direct or indirect, in merchandising, handling, storing, or processing any commodities of the kind to be inspected by him or related products, may be licensed by the Secretary to inspect such commodities. Each license which is issued by the Secretary shall be countersigned by the Director. Each person who applies for a license as an inspector shall, if so required by the Director, be examined for the purpose of determining his competency. Such examination shall be held at such time and place and in such manner as may be prescribed by the Director.

68.38 Who may be licensed as samplers.—Any person who possesses proper qualifications as determined by a supervising inspector, and has no interest, financial or otherwise, direct or indirect, in merchandising, handling, storing, or processing commodities of the kind to be sampled by him or related products may be licensed by the Secretary to draw samples of such commodities. Each license which is issued to samplers by the Secretary shall be countersigned by the supervising inspector under whose direction the licensee draws samples of commodities.

68.39 Sampling procedure.—Upon request of any inspector, a licensed sampler shall draw a sample or samples from a designated lot or lots of commodities in accordance with methods prescribed by the Director. Such sampler shall forward all samples of commodities thus drawn to a designated office of inspection in accordance with the instructions of a supervising inspector, and shall furnish, with each sample, the information which the supervising inspector may request.

68.40 Samples to be identified.—Each sample shall be accompanied by a sampling report signed by the licensed sampler, giving the identity, quantity, and location of the commodity sampled, the name and address of the applicant for inspection, and such other information regarding the lot of the commodity sampled as may be required by the supervising inspector.

68.41 Suspension or revocation of licenses.—(a) The license of any inspector or sampler licensed under the regulations may be suspended or revoked if the licensee, (1) through wilfulness, carelessness or incompetence fails to perform his duties in accordance with the regulations, and instructions and procedures prescribed by the Director; (2) becomes incapable of properly performing such duties; or (3) engages in any of the activities specified in § 68.35 or § 68.52.

(b) In cases of wilfulness, or those in which the public health, interest, or safety so requires, the license of any licensed inspector or sampler may be summarily suspended by the Director without hearing, pending investigation, but the licensee shall be advised of the facts or conduct which appear to warrant suspension or revocation of his license and shall be accorded an opportunity for a hearing before a proper official in the Department, before the license is finally

suspended or revoked. In all other cases, prior to the institution of proceedings for the suspension or revocation of a license, the Director shall cause to be served upon the licensee, in person or by registered mail, a statement of the facts which appear to warrant such suspension or revocation, specifying a reasonable time, depending upon the circumstances in each case, within which the licensee may demonstrate or achieve compliance with the acts, the regulations and instructions and procedures prescribed by the Director. The licensee may demonstrate compliance by the presentation of evidence in writing or, in the discretion of the Director, at an oral hearing. At the end of the time allowed for the licensee to demonstrate or achieve compliance, if the Director finds he is in compliance, proceedings for the suspension or revocation of his license shall not be instituted, but if the Director finds the licensee is not in compliance, he may institute such proceedings and, after service upon the licensee, in person or by registered mail, of a notice that suspension or revocation of his license is under consideration for reasons set out in the statement previously served upon him, and after opportunity for hearing before a proper official in the Department, the license may be suspended or revoked.

FEES AND CHARGES FOR INSPECTION SERVICE

68.42 Establishment of fees and charges for inspection service.—Fees and charges for inspection service shall be established in accordance with § 68.43, § 68.44, and § 68.47, and shall be reasonable and as nearly as may be equal to the cost of the service for which such fees and charges are assessed. Specific information concerning the fees and charges for particular services under the regulations may be obtained from the Director.

68.42a Fees and charges for inspections, reinspections, and appeal inspections of certain commodities and products.—The schedule in this section prescribes fees and charges for inspections under this part by authorized salaried employees of the Department.

(a) *Inspections for compliance with quality specifications.* (1) The fees set forth below are the minimum fees for the inspection for compliance with quality specifications, of the listed commodities and products in lots consisting of a carload quantity or less.

<i>Commodity or product</i>	<i>Minimum fee per carload or less</i>	<i>Commodity or product</i>	<i>Minimum fee per carload or less</i>
Bakery products-----	\$15. 00	Flours—Continued	
Barley products:		Wheat flour (hard wheat)-----	18. 50
Malt brewers-----	24. 00	Wheat flour (soft wheat)-----	15. 00
Malt extract-----	24. 00	Oils: ¹	
Malted cereal sirup-----	27. 50	Castor oil-----	48. 00
Pearl barley-----	15. 00	Corn oil-----	15. 00
Breakfast cereals-----	15. 00	Cottonseed oil-----	18. 50
Corn products:		Fish oils-----	18. 50
Corn grits-----	15. 00	Linseed oil, raw-----	30. 00
Corn meal-----	15. 00	Linseed oil, boiled-----	36. 50
Corn sugar-----	14. 00	Salad oil-----	18. 50
Corn syrup-----	14. 00	Soybean oil-----	18. 50
Dextrin-----	24. 00	Sunflower seed oil-----	15. 00
Dextrose-----	24. 00	Tung oil-----	36. 50
Feeds:		Oleomargarine-----	18. 50
Alfalfa meal and pellets-----	15. 00	Shortening, vegetable-----	28. 00
Bone meal-----	18. 50	Soaps:	
Bran-----	15. 00	Laundry soap-----	30. 00
Brewers dried grains-----	15. 00	Toilet soap-----	36. 50
Cracked corn-----	14. 00	Scouring cleanser-----	24. 00
Cracked wheat-----	14. 00	Starch from grain-----	15. 00
Distillers dried grains-----	15. 00	Wheat products:	
Fish meal-----	15. 00	Macaroni-----	15. 00
Gluten feeds-----	15. 00	Noodles (all kinds)-----	22. 50
Meat packing by-product feeds-----	18. 50	Spaghetti-----	15. 00
Molasses (for feed)-----	15. 00	Vermicelli-----	15. 00
Rolled barley-----	15. 00	Miscellaneous:	
Oilseed meals-----	15. 00	Copra-----	14. 00
Oilseed cake and pellets-----	15. 00	Dough improver-----	15. 00
Shorts-----	15. 00	Monosodium glutamate-----	18. 50
Flours:		Mustard seed (for processing)-----	14. 00
Buckwheat-----	15. 00	Stearic acid-----	24. 50
Prepared mix-----	18. 50	Sulfonated fats, oils and fatty acids-----	30. 00
Rye flour-----	14. 00	Tallow, inedible-----	30. 00
Soy flour-----	18. 50	Yeast, active dry-----	30. 00
Semolina-----	14. 00	Yeast, nutritional-----	36. 50
Whole wheat (Graham) flour-----	15. 00		
Wheat flour (all purpose)-----	18. 50		

¹ Does not include tests for refining loss (see paragraph (c) of this section).

Other commodities and products assigned to the Grain Division: Fees based on the cost of \$4.50 per hour plus overtime, travel, and per diem at rates in accordance with those prescribed in subparagraph (3) of this paragraph, and other items of expense, if any. (See also paragraph (g) of this section.)

(2) The minimum fees for the inspection for compliance with quality specifications of larger than carload lots of the commodities and products listed in subparagraph (1) of this paragraph, in warehouses or elsewhere, except in the case of bulk oils, will be computed at the carload rate, charging the carload fee for each 100,000 pounds or fraction thereof. Fees for larger than carload lots of oils in bulk such as storage tanks, tank barges, and steamships, shall be at the rate of 10 cents per 1,000 pounds for the first 500,000 pounds plus 5 cents per 1,000 pounds or portion thereof for that quantity, if any, in excess of 500,000 pounds in the lot. For the purposes of this paragraph the oil in each tank or other unit shall be considered a separate lot. Fees for larger than carload lots of oil in standard size drums in warehouses, on docks, or elsewhere shall be at the rate of 10 cents per 1,000 pounds. If more than one sample from a lot is drawn and analyzed, the extra cost of such analysis shall be included in the total charges. In no case shall the fee for any commodity or product under this paragraph be less than the minimum listed in this paragraph for a carload or less.

(3) The fees provided for in subparagraphs (1) and (2) of this paragraph cover sampling, testing (including laboratory tests required by the usual specifications), and certificating commodities and products for quality specifications during the regular tour of duty of the inspector, at points where inspectors are located. There will be added to the fees charged under those subparagraphs charges for overtime, if any, at the rate of \$5.80 per hour, and additional fees in accordance with paragraph (c) of this section to cover laboratory tests other than those required by usual specifications. At points where no inspector is located, further charges will be made in accordance with paragraph (e) of this section to cover fees paid to licensed samplers for obtaining samples, and charges to cover standby time at the rate of \$4.50 per hour, overtime at the rate of \$5.80 per hour, per diem within rates prescribed in standardized government travel regulations, mileage at the rate of eight cents per mile for travel by automobile, and the cost of other travel, and other items of cost incurred in obtaining samples.

(b) *Special inspection services.*—Except as provided in paragraph (g) of this section, special services under this part, such as inspecting commodities and products for condition, checkloading, and checkweighing commodities and products, examining containers for suitability for storing and shipping commodities and products, and similar services, will be charged for on the basis of the time consumed at the rate of \$4.50 per hour during the regular hours of duty and \$5.80 per hour for overtime, plus cost of travel, and per diem, at rates in accordance with those prescribed in paragraph (a) (3) of this section, and other items of expense incurred in furnishing the service. If a laboratory test or grade factor analysis is required in connection with the inspection for condition of commodities and products, the fee for such test or analysis shall be in accordance with the applicable fee under paragraph (c) of this section and shall be included as an item of expense in computing the total cost of the service.

(c) *Special tests and grade factor analyses.*—Fees for the inspection of commodities and products under instructions and procedures prescribed by the Director or to determine one or more factors of quality covered by specifications when not inspected for compliance with complete quality specifications, or involving laboratory tests other than those required by the usual specifications, or tests for one or more factors of grade when not inspected for grade shall be computed in accordance with subparagraphs (1), (2) and (3) of this paragraph, except as otherwise provided in subparagraph (4) of this paragraph for the inspection of cargo wheat for protein content.

(1) Fee to cover the cost of sampling on the basis of time at \$4.50 per hour, plus overtime, per diem and travel expense, if any, at rates in accordance with those prescribed in paragraph (a) (3) of this section, with a minimum of \$2.00 per sample;

(2) Fee for certification and record, \$1.00 for each certificate issued; plus

(3) Fee for laboratory tests, or grade factor analyses, as listed below:

(i) Fees for laboratory tests:¹

<i>Kind of test</i>	<i>Fee per sample</i>	<i>Kind of test</i>	<i>Fee per sample</i>
Alcohol insoluble (in soap)-----	\$2.75	Iron-----	11.25
Anhydrous soap-----	6.75	Keeping time (of shortening)-----	5.75
Ash-----	1.50	Melting point (Wiley)-----	2.75
Bleached color (of oil)-----	2.75	Milling (wheat to flour)-----	10.00
Bread-baking test-----	15.75	Moisture (distillation)-----	2.75
Break test (of oil)-----	5.50	Moisture (oven)-----	1.50
Bromate (in soy flour)-----	4.50	Monoglyceride-----	6.75
Calcium-----	11.25	Oil content of oil seeds-----	2.25
Cold test (of oil)-----	1.50	pH (hydrogen ion concentration)---	1.50
Color (of oil)-----	1.50	Phosphorus (in feeds)-----	8.50
Dextrose-----	2.75	Pressuremeter value-----	2.75
Diastatic activity (of flour)-----	5.50	Protein-----	2.75
Diastatic activity (of malt products)-----	6.75	Reducing sugars-----	2.50
Egg solids-----	5.50	Refining loss (of oils)-----	11.25
Enrichment (quick test for flour)---	1.25	Refractive index-----	1.50
Fat (by acid hydrolysis)-----	6.75	Ribonflavin-----	9.00
Fat (by extraction)-----	2.25	Rope spore count (in yeast)-----	12.25
Fat acidity-----	2.75	Salt (extraction)-----	2.75
Fiber, crude-----	5.75	Salt (in soap)-----	2.25
Filth-----	9.00	Saponification number-----	2.75
Flash point (of oil)-----	2.25	Sedimentation value (wheat)-----	2.50
Free alkali in soap-----	2.75	Sieve test-----	1.50
Free fatty acids (in oil)-----	1.50	Smoke point-----	2.25
Foots (in oil)-----	1.75	Specific gravity-----	2.75
Heating test (oil and shortenings)---	1.50	Thiamine-----	9.00
Impurities, insoluble, in oil-----	2.75	Titer test-----	5.75
Insect fragments (in flour)-----	11.25	Unsaponifiable matter (of oil)----	9.00
Iodine number (of oil)-----	2.75	Vitamin A (in oil)-----	8.50
Iodine number (refractometric, applicable only to oils of flaxseed and soybeans when oil content is also determined)-----	1.50	Water insolubles (in soap)-----	4.50
		Water absorption (soy flour)-----	1.50
		Water-soluble protein-----	5.75

(ii) Fees for grade factor analyses: For each grade factor analysis such as test weight, moisture, damage, heat damage, splits, cracked kernels, other grains, mixture of classes, foreign material, or dockage, as defined in any official U.S. Standards, the fee shall be 50 cents, with a minimum of \$2.00 for each sample analyzed, including fee for certification and record.

(iii) The laboratory tests and grade factor analyses listed in subdivisions (i) and (ii) of this subparagraph are those most commonly required in the inspection of commodities and products covered by this schedule. The fees for laboratory tests or factor analyses not listed in said paragraphs will be based on the cost at \$4.50 per hour.

(4) Fees and charges for inspection and certification of cargo wheat for protein content.

(i) The fee for each sample inspection and certification will be \$20.00.

(ii) The fee for each lot inspection and certification will be \$20.00: *Provided*, That in addition charges will be made at the rates prescribed in subdivision (vi) of this subparagraph to cover the sampling of the wheat in those cases where an appeal was not taken on the wheat under the United States Grain Standards Act or the wheat was not inspected and graded in Canada under the regulations in this part.

(iii) The fee for each reinspection and certification will be \$15.00.

(iv) The fee for each appeal inspection and certification will be \$15.00: *Provided*, That no fee or charge shall be assessed if the Supervising Inspector who makes the appeal inspection finds that there is a material error in the inspection from which the appeal is taken.

(v) However the fee for each inspection, reinspection, or appeal inspection, and certification, for each additional sample, (see § 68.4a(a)(2)(v)), will be \$15.00: *Provided*, That no fee or charge shall be assessed if the Supervising Inspector who makes the appeal inspection finds that there is a material error in the inspection from which the appeal is taken.

(vi) (a) The fees prescribed in subdivisions (i) through (v) of this subparagraph shall cover the preparation and handling of samples, protein tests, moisture tests if any, communications and postage, and certification and record.

¹ When a laboratory test for any factor or factors is made on a specific moisture basis or on a moisture free basis the fee for oven moisture determination shall be added to the fee for such test.

(b) The sampling charges prescribed in subdivision (ii) of this subparagraph shall be at the rate of \$4.50 per hour during the regular tour of duty, and at the rate of \$5.80 per hour for overtime, night, and holiday work. If travel is performed in obtaining the sample or samples, additional charges shall be made to cover the cost of per diem at the rate of \$12.00 per day or quarter portion thereof, mileage at the rate of eight cents per mile for travel by automobile, the cost of other travel, if any, and other items of cost incurred in obtaining the sample or samples.

(c) In addition to the fees and charges prescribed in subdivisions (i) through (v) of this subparagraph, charges may be made to cover the cost of travel performed at the request of the applicant in connection with the obtaining of samples from licensed inspectors, the delivery of samples to laboratories, and/or other travel performed at the request of the applicant in connection with the inspection, reinspection, or appeal inspection of cargo wheat for protein content. Such additional charges shall include the costs of travel, per diem, time, overtime, and other expenses, if any, at rates prescribed in this paragraph.

(d) *Reinspection and appeal inspection fees and charges.*—The fees and charges for reinspections, and for appeal inspections for which a fee or charge is to be made under § 68.44, with respect to commodities and products covered by this schedule, shall be the same as those for inspection of such commodities and products except as otherwise prescribed in paragraph (c) (4) of this section.

(e) *Licensed samplers' fees and charges.*—Fees and charges for the drawing of samples of commodities and products covered by this schedule by a licensed sampler shall be in accordance with the terms of the agreement under which the sampling is performed. Information as to the applicable fees and charges in specific cases may be obtained from the Director, Grain Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C.

(f) *Charges for extra copies of certificates.*—The original and not more than four copies of a certificate for any commodity or product covered by this schedule may be issued to the applicant for inspection, or on his order, without extra charge. When more copies are desired, they will be furnished for a fee of 25 cents per copy, provided the request for such extra copies is made at the time of application for inspection; otherwise the charge will be \$1.00 for one to four extra copies and 25 cents for each copy in excess of four.

(g) *Certain commodities and inspections excepted.*—(1) This schedule does not include fees and charges for the inspection of beans, hay, straw, lentils, peas, and rice for grade; hops for content of seeds, leaves, and stems, and for aphid infestation; and seeds for origin, germination and purity. Information regarding the applicable fees and charges for the inspection of these commodities may be obtained from the Director, Grain Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C.

(2) This schedule does not apply to service under a cooperative agreement which contains provisions for fees and charges inconsistent herewith.

(h) *Inspection of United States grain in Canada.*—(1) The fees for the sampling, inspection, grading, and certification of United States grain moving through Canada, in accordance with the Official Grain Standards of the United States (Part 26, Subpart B of this chapter), shall be as follows:

(i) For bulk or sacked grain in carload lots, \$8.00 per car;

(ii) For bulk or sacked grain in trucks and trailers, \$5.00 per truck or trailer lot;

(iii) For bulk or sacked grain in boats, barges, or other vessels, \$2.00 per thousand bushels or fraction thereof, with a minimum of \$5.00 per lot;

(iv) For a submitted sample or package of grain, \$3.00 per sample or package;

(v) For all lots of grain other than those referred to in subdivisions (i), (ii), (iii), and (iv) of this subparagraph, \$2.00 per thousand bushels or fraction thereof, with a minimum fee of \$5.00 per lot.

(2) In addition, charges will be made for overtime, if any, and travel, if any, to points where no inspector is stationed, at rates in accordance with those prescribed in paragraph (a) (3) of this section.

68.43 Fees and charges for inspection or reinspection.—Except as provided in § 68.47, fees and charges for any inspection or reinspection shall be in accordance with the applicable provisions of paragraphs (a) and (b) of this section.

(a) *Inspection by a salaried employee of the Department.*—Unless otherwise required by the provisions of (b) of this section, fees and charges for inspections

or reinspections by an authorized inspector who is a salaried employee of the Department shall be in accordance with such schedule of fees and charges as may be fixed and issued by the Director.

(b) *Inspection under a cooperative agreement.*—Fees and charges for inspections or reinspections made pursuant to a cooperative agreement shall be in accordance with the terms and provisions of such agreement.

68.44 Fees and charges for appeal inspection.—Fees and charges for appeal inspections shall be in accordance with such schedule of fees and charges as may be fixed and issued by the Director: *Provided*, That, if the supervising inspector who makes an appeal inspection finds that there is a material error in the inspection from which an appeal is taken, no fees or charges shall be assessed.

68.45 Fees and charges when an application for inspection, reinspection or appeal inspection is withdrawn or any inspection service is refused.—In the event an application for inspection, reinspection or appeal inspection is withdrawn or any inspection service (including original inspection, reinspection, or appeal inspection), is refused pursuant to the applicable provisions of the regulations, the interested party who made the application for the inspection service shall pay only such expenses as were incurred in connection with the service prior to the withdrawal or refusal.

68.46 Payment of fees and charges.—(a) *Manner of payment.*—Except as provided in § 68.47 fees and charges for inspections, reinspections, and appeal inspections shall be paid by the interested party making application for such inspections in accordance with the provisions of paragraphs (b) and (c) of this section; and, if required by the inspector or supervising inspector who is to make such inspection, such fees and charges shall be paid in advance.

(b) *Fees and charges for inspection by a salaried employee of the Department.*—Fees and charges for inspections, reinspections, or appeal inspections by an inspector or a supervising inspector who is a salaried employee of the Department shall, unless otherwise required by paragraph (c) of this section, be paid by the applicant by check, draft, or money order payable to the Treasurer of the United States and remitted promptly to the Director.

(c) *Fees and charges for inspection under a cooperative agreement.*—Fees and charges for inspections or reinspections under a cooperative agreement shall be paid by the applicant in accordance with the terms of such agreement.

68.47 Fees and charges for services by licensed samplers.—Fees and charges for drawing samples of commodities by a licensed sampler shall be paid by the applicant, either direct to such licensed sampler or to the person, if any, by whom such licensed sampler is employed in such capacity. All fees and charges for drawing samples of commodities by a licensed sampler shall be in accordance with such schedule of fees and charges as may be fixed and issued by the Director: *Provided*, That if the licensed sampler is employed under a cooperative agreement, the fees and charges shall be in accordance with the terms of such agreement.

68.48 Refunds.—The Director will cause to be refunded to any State or person who is a party to a cooperative agreement with the United States for inspection services, and to any applicant for inspection service, any fees and charges remitted in excess of the amount due the United States.

MISCELLANEOUS

68.49 Publications.—Publications under the acts and the regulations in this part may be made in the Federal Register, the Service and Regulatory Announcements of the Agricultural Marketing Service, and such other media as the Administrator may approve for the purpose.

68.50 Filing of final orders in proceedings to deny inspection service or to suspend or revoke licenses.—All final orders in any proceeding to deny the benefits of the acts to any person or to suspend or revoke a license (except orders required for good cause to be held confidential and not cited as precedents) shall be filed with the Hearing Clerk of the Department and be available to public inspection.

68.51 Inspection records confidential.—Unless otherwise provided by the regulations in this part or, by other regulations of the Department, records of any inspections, including but not limited to, copies of any inspection, reinspection, or appeal inspection certificates issued, records of such certificates, applicant's

accounts, or other information relating to the work of any office of inspection shall not be made available to, or be opened for examination by, any person who is not connected with the inspection service provided by the regulations in this part, and such records shall be held strictly confidential and for reference only by the Director, the inspector in charge of such office of inspection, his assistants, and such inspector's supervising inspector. Summarized reports which do not disclose the operations of any individual grower, shipper, or other interested party and which are identified clearly as to source and contents may be released to the public: *Provided*, That, when so released, they shall be published in such manner and in such media as will make the information available alike to all interested parties.

68.52 Political activity.—All inspectors are forbidden, during the period of their appointments or licenses to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. In addition to licensees, this applies to all appointees, including, but not being limited to, temporary and cooperative employees, and employees on leave of absence with or without pay. Wilful violation of this section will constitute grounds for dismissal or other disciplinary action in the case of appointees, and suspension or revocation of licenses in the case of licensees.

68.53 Identification.—All inspectors and official samplers shall have in their possession and present upon request, while on duty, the means of identification furnished to them by the Department.

68.54 Loaning of samples.—In the discretion of the Director, limited numbers of samples illustrating the United States standards under the Acts, or specially prepared exhibits illustrating any part of such standards, may be loaned by the Department without charge to governmental agencies for official purposes or to educational institutions of higher learning and to trade organizations for demonstration purposes.

